

Contemporary Piracy in Southeast Asia and Somalia

An Analysis of Causes, Effects, and Current Counter-Piracy Approaches

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I. INTRODUCTION

The aim of this paper is to use these two case studies of Southeast Asia and Somalia to analyse the causes of contemporary piracy, how it is classified, its effects, the reasons motivating nations to act to suppress it, and finally the effectiveness of present counter-piracy approaches. The paper will start with an examination of the issues surrounding the definition of piracy and the application of international law in respect to its suppression, arguing that although there are several limitations in the current legal framework, international law is nevertheless sufficient to prosecute pirates. The nature and scale of contemporary piracy will then be considered, along with the problems of compiling and interpreting

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piracy statistics. After introducing the two case studies, the paper analyses eight causes of piracy, using the case studies to demonstrate that piracy has both generic and regionally discrete causes and that its characteristics are dependent upon a wide range of factors. The different ways by which piracy is classified are then examined, and it is argued that the utility of these different classifications lies in the context in which piracy is being considered and the purpose, for which policies are being developed. The paper next looks at the effects of piracy upon seafarers, the global economy, the environment, and individual states. It posits that although the total economic impact of piracy on global seaborne trade is negligible, the sensitivity of modern commercial logistics to disruptions means that a small outbreak of piracy can have a disproportionate effect on commerce. Furthermore, it also argues that piracy has a greater effect on coastal states, where it distorts the local economy and threatens state security through its corruption of state institutions. The reasons for states taking action against piracy are then analysed, and it is shown that these can be either due to the scale of the economic loss caused by pirates, the politicisation and securitisation of the issue, or the use of piracy as a means by which they can pursue other unrelated national interests, or sometimes a combination of these reasons. Finally, the paper concludes with an analysis of current counter-piracy efforts, arguing that in both case studies, the emphasis lies in dealing with the symptoms rather than seriously addressing the underlying root causes, resulting in containment rather than eradication of the problem.

Due to the constraints of space, this paper will not cover the history of piracy, nor examine maritime terrorism, except where it is relevant to

contemporary piracy. In its analysis of methods to counter piracy, it will remain at the strategic level and not study naval counter-piracy tactics or merchant vessel defence.

II. NATURE AND SCALE OF THE PROBLEM

Over last 30 years, piracy has increased dramatically around the world. On a macro-level, Peter Lehr identifies this as a result of two global phenomena. First, there has been a vast increase in trade on the world's seas and oceans due to globalisation and liberalisation, which provides a large increase in potential targets for criminal activity. Second, with the demise of the Soviet Union, and the end of the Cold War, there has been a lower interest in maritime affairs and a decline in the number of warships patrolling the world's oceans, particularly the Pacific and Indian Oceans, and so lowering the security for merchant vessels(Lehr 2007: vii).

In year 2010, the International Maritime Bureau(IMB) recorded a total of 445 incidents of piracy and armed robbery against ships, a 10% increase on 2009. During 2010, a total of 49 vessels were hijacked, 1,181 crew taken hostage and a further 46 vessels were reported as being fired upon. Eight crew members were killed, 32 injured, and 21 are missing, presumed dead. Guns were used in 139 of the incidents(IMB Piracy Report 2010). However these overall figures hide a number of disparate trends, which are the result of differing local, regional, and international dynamics.

These statistics are collected by the IMB, which was established by

the International Chamber of Commerce in 1979 to combat maritime fraud. The Piracy Reporting Centre (PRC) in Kuala Lumpur, Malaysia, which was established by the IMB in 1992, receives reports directly from ships, or owners of ships that have been attacked. The IMB global figures show an insignificant level of incidents in the 1980s, with an increase in the early 1990s, and again from 1995 onwards, peaking in 2000, before dropping off to numbers still above average 1990s levels until 2006, and then highly increasing again over the last 4 years. These global figures however are of no great significance when examining the problem, as they hide large regional and local variations. Piracy is best examined by looking at the problem at local and regional level.

Additionally, the data provided by the IMB has limitations, and the figures and trends referred to above can not be regarded as the whole picture, as many incidents are not reported. This is due to a number of reasons: sometimes the witnesses are killed; sometimes they are intimidated not to report, especially during kidnappings; much low-level piracy is against poor fishermen themselves who are unlikely to report the crime to any authorities; states and ports are keen to maintain their reputations and are wary of being seen to have a piracy problem; shipping companies are likewise keen to avoid damage to their reputation, increases to their insurance premiums, and crew demands for additional danger money; and ship's masters do not want to delay their ship through the requirement to undertake an investigation. Furthermore as seen earlier, there is confusion as to the definition of what constitutes piracy, and in particular, whether attacks on ships at berths constitute piracy or 'port crimes', similar to stealing from warehouses. Finally, incidents outside Southeast Asia were underreported in the nineties, due

to the PRC's location in Kuala Lumpur and the fact that piracy was seen then merely as an Asian issue. All this means that the statistics must be treated with some caution, and the actual number of incidents may be more than double the IMB figures.

Two of the regions that have been most affected by contemporary piracy have been Southeast Asia and Somalia. In both regions, piracy preys on key maritime routes – the Malacca Straits, through which 50,000 vessels a year transit, and the Gulf of Aden, through which over 20,000 vessels a year transit. In Southeast Asia, as we have seen, there has been a decline in incidents, and a regional-led approach to counter-piracy, which has now been in operation for a number of years. In Somalia, on the other hand, there has been a large increase in the number of incidents, leading to an international response. Thus with both significant similarities and differences, it is worth studying these two regions in more detail to compare and contrast the causes, effects, and methods of countering piracy.

III. SOUTHEAST ASIA

Southeast Asia has been a centre for maritime trade since ancient times, and the high value of cargoes underway has naturally attracted pirates. The combined archipelago of Malaysia, Indonesia, and the Philippines is made up of over 20,000 islands and thousands of miles of coastline. With many of the islands uninhabited and the coastline punctuated by secluded bays, navigable rivers, and covered by dense jungle, the region's geography is uniquely suited to the conduct of

piracy. It was not until the 1840s that European navies equipped with steam-powered gunboats were able to defeat the local raiding and pirate fleets. Piracy was suppressed over the next century through military might and increased colonial control of some of the remoter islands but never fully eradicated.

Opportunistic piracy continued in post-colonial Southeast Asia after the Second World War. A particular hotspot has been the southern Philippines, where ethnic Muslims, poorly integrated into the Christian north of the country, have never ceased their age old traditions of piracy and coastal raiding against other indigenous peoples in the Sulu Sea, including communities on the east coast of Malaysian Borneo, the Sabah Province of Malaysia(Eklöf 2006: 5-14). In the southern Malacca Straits, Singapore Strait, and Indonesia's Riau-Lingga Archipelago, piracy emerged again as a contemporary phenomenon in the 1980s. These attacks are mainly hit-and-run night-time attacks on all types of vessels from tugs and barges up to container ships and oil tankers by groups of between four and ten Indonesians in small fast open boats, armed with knives and sometimes firearms. The pirates usually make off with cash, and easily portable and resaleable valuables. Most of these gangs recruit from disillusioned migrant workers who have come to the Riau Archipelago from other parts of Indonesia, mainly Java and Sumatra. Their modus operandi has since spread, probably through personal links, to the east coast of South Sumatra, where piracy has increased since the mid 1990s. A third hotspot for opportunistic piracy in Southeast Asia has emerged since 2001 in the northern parts of the Malacca Straits, particularly off the coast of the Indonesian province of Aceh. Here attacks have been characterised by a higher level of

violence, and kidnappings of vessels' crewmembers and fishermen for ransom. The violence has been associated with the unrest and insecurity in Aceh, and the Indonesian military have claimed that links existed between the pirates and the Free Aceh Movement (Gerakan Aceh Merdeka (GAM)). However, since the peace agreement was signed between the Indonesian government and GAM in 2005, piratical activity has continued, indicating that the piracy is probably conducted by local bandits or GAM splinter groups, rather than by GAM itself.

In conjunction with the rise of opportunistic piracy in the 1980s, came a large rise in organised maritime crime activities. Linked to insurance fraud, documentary fraud, and cargo diversion, the hijacking of large merchant vessels and their cargos by organised crime syndicates was a frequent occurrence in the 1980s and 1990s. However, a crackdown by Chinese authorities on corrupt officials, smugglers and pirates, including executions and heavy prison sentences, removed the main market for hijacked ships and their cargos. Simultaneously the equipping of all vessels over 500 gross registered tonnes with Automatic Identification Systems (AIS) since 2004,¹⁾ has made it more difficult to provide a hijacked ship with a phantom identity. Thus organised crime syndicates have shifted their targets to tugs and barges, which are more easily attacked, due to their low freeboard and slow speed; more easily disguised than merchant vessels; and which nevertheless have valuable cargoes (normally palm oil). Moreover, being less than 500 tonnes, tugs are not required to have AIS installed. Additionally, the syndicates have

1) The author would like to point out that after 2004 Tsunami, piracy in Somalia has been increased while Southeast Asia has been running in a different path. It might be the regional differences, which means the Horn of Africa was less affected by the incident but Southeast Asia was a direct victim.

taken to outsourcing the initial attacks to local pirates, principally from Indonesia's Riau Archipelago, who then hand over to a delivery crew. Thus the distinction between local opportunistic pirates and organised crime in the Malacca Straits is becoming blurred(Eklöf 2006: 65-83).

The traditional opportunistic piracy of the Southern Philippines has also been exacerbated by maritime insurgency since 1972, with the indigenous people fighting for an independent Moro or Islamic state. Both the Moro National Liberation Front(MNLF) and a splinter group the Moro Islamic Liberation Front(MILF) have used piracy to raise funds for the group's armed struggle. A third group, the strongly Islamist Abu Sayyaf Group (ASG), with links to terrorist networks such as Al Qaeda and Jemaah Islamiya has used more indiscriminate violence. However with the death of its founder in 2000, ASG has moved away from its political objectives towards more criminal activities, including coastal raiding on tourist resorts and shipping to kidnap hostages for ransom. The ASG is also responsible for the bombing of the Superferry 14 outside Manila in February 2004, the world's worst maritime attack with the loss of 116 lives. Although similar to other Islamist terrorist attacks on global transport infrastructure, the demand for US\$1 million from the ferry's owners a month before the attack reveal the main motive was economic (extortion) rather than political. However the presence of the Islamist groups, and in particular the ASG in the Sulu Sea area, has provided the outlaws of the region with 'an agenda and an ideology'(Frake 1998: 41-54), linking Moro nationalism, Islam, and the idea of a global jihad to give coherence and a moral justification for their piracy. The results are more organised and well planned acts of piracy, raids, kidnapping, and extortion, making the ASG more like an

organised crime syndicate than an Islamic insurgent group(Eklöf 2006: 110-124).

IV. SOMALIA

Away from Southeast Asia, it is the waters off the Horn of Africa that are attracting media attention as the current piracy hotspot. There has been little opportunity for academic fieldwork to be carried out in Somalia, thus the origins and details of the pirate gangs' organisation are less certain than in Southeast Asia. However it is clear that piracy here grew out of the lawlessness and disorder following the overthrow of the socialist dictator Muhammad Siad Barre by clan-based warlords in 1991. Piracy started out with local fishermen protecting their territorial fishing grounds against foreign vessels fishing there illegally and destroying their livelihoods, as well as the alleged illegal dumping of toxic waste off Somalia. Without a central authority to issue fishing permits and a navy to police the fishing grounds, maritime militias took matters into their own hands and seized international fishing boats to demand payment for fishing rights. Once they saw the large rewards that could be obtained at minimal risk through this activity, they started hijacking other vessels and their crews for ransom. The pirates quickly became well-organised and well-funded. In 1994, the MV *Bonsela* was attacked by 26 pirates posing as coast guards, who then used it as a base for attacking other ships, and by 1998 two-thirds of all maritime abductions worldwide were taking place in the Gulf of Aden close to Somalia(Murphy 2007: 29). By 2000 there were 23 incidents of piracy

off Somalia, and a similar number the following year. The number then declined over the next three years, possibly due to the activities of the Operation Enduring Freedom coalition naval task force, CTF 150, operating in the area. Aided by continuing warlordism on land, piracy resumed with an upsurge in 2005, possibly as a result of the devastation caused to coastal communities by the 2004 Boxing Day Tsunami, and growing steadily in its scale and audacity until the present. The only break in this rise has been a six month interlude from June to December 2006, when the Islamic Courts Union(ICU) took control of several towns, including Mogadishu, and successfully suppressed the pirates who had been working under the warlords by closing their bases in Hobyo and Harardheere. With the collapse of ICU rule in December 2006, piracy quickly resumed.

Peter Chalk stated in 2002 that an Aden-based Somali named Hassan Munya was thought to be running the main syndicate, composed of a fleet of heavily armed ships, used to control and exploit a self-declared fishing and economic zone off the coast of the semi-autonomous region of Puntland in the northeast of the country. Further down the coast, smaller groups were based out of coastal villages notorious for warlordism and crime. These gangs mostly engaged in opportunistic attacks against local and foreign vessels, operating independently from one another within predefined and agreed upon areas(Lehr, et al. 2007). By 2008, experts claimed that there were 5 main gangs operating along the length of the Somali coast, each linked to a powerful local warlord, with ties to the ineffective Transitional Federal Government(TFG) of the now deposed President Abdullahi Yusuf. Others report that these gangs have been recently replaced by around twenty new gangs, which have

lost their original link to the locally dominant clans. Andrew Mwangura, the head of the Seafarer's Assistance Programme in Mombasa, and negotiator with the pirates, claims that the pirates are funded, armed, and controlled by well-organised syndicates run by wealthy Somali expatriates living abroad in the UK, Canada, and Mombasa. He claims that it is these expatriate Somalis that receive much of the ransom money, while the actual pirates receive a few hundred dollars. Others believe that the majority of the money remains within Somalia. Puntland pirates, arrested and convicted in Somaliland, have stated that the missions are financed by businessmen who collect half the ransom, with the other half divided between the group of seven to ten pirates, which carried out the operation. Although pirate gangs are based along the whole Somali coast, it is Puntland, which has become the biggest hub of pirate activity, targeting the large numbers of vessels transiting the Gulf of Aden. Hijackings have brought in millions of dollars in revenue and transformed Puntland into a pirate state.

Similar to most contemporary pirates, the Somali gangs operate out of small fast boats, but where they differ from Southeast Asian gangs is in their ability and willingness to range far offshore, through the use of 'mother ships' - normally vessels seized from poorer seafarers, which are not worth ransoming. In November last year, the VLCC *Sirius Star* was seized some 450 miles off the Somali coast (IMB, Piracy Report 200, 2008), and by April this year the pirates had extended their reach as far as the Seychelles Islands, some 800 miles from Somalia. Firing automatic weapons and rocket-propelled grenades, the pirates compel the target vessels to allow them to board, the crew are taken hostage, the ship sailed to the Somali coast, where the interpreter and reinforcements

embark and the ransom set.

There are also reports suggesting that Somalia's Islamist insurgents, the hard-line Shabab movement, which split from the ICU after its collapse at the hands of the TFG, are co-operating with the country's pirate groups. Pirate groups are said to be shipping arms to the insurgents, who are supplying some pirates with weapons and training in return for a share of the ransoms. There are no obvious links as the majority of pirates operate from bases in northern Somalia, whereas the insurgents are strongest in the south. The insurgents are however apparently cooperating with pirate groups in the south. The insurgents are said to be training pirates, some of whom will operate out of bases near Kismaayo, a port in southern Somalia captured by the militants in August 2008. The Shabab is also said to be establishing its maritime wing to facilitate the smuggling of weapons and foreign jihadists(Janes 2008: 6-9).

V. CAUSES OF PIRACY

As we have seen from these two case studies, piracy is a regional phenomenon; its character the product of the environment from which it emerges. In order to have any effect in countering piracy, an understanding of its causes is required. At its black heart, piracy is simply a low-risk criminal activity that can bring high rewards, and if the opportunity for attaining such rewards exists, then men will engage in that activity. Martin Murphy details seven major factors that enable piracy to flourish(Murphy 2007: 13). He takes the view that poverty as a

motivating factor is too simplistic, as much piracy is conducted by groups of organised criminals that treat it as a business. However as we have seen above, much piracy, particularly in Southeast Asia, is opportunistic rather than organised, and thus an eighth factor is needed, which is the economic and social marginalisation of poor maritime-orientated people. Thus the eight causes of piracy that will be explored with specific reference to their relevance and importance for each of the two case studies are as follows:²⁾

- Legal and Jurisdictional Weakness
- Favourable Geography
- Conflict and Disorder
- Under-funded Law Enforcement
- A Permissive Political Environment
- Cultural Acceptability
- The Promise of Reward
- The Marginalisation of Poor Maritime-Orientated People

But, of course, this paper is not testing Murphy's analysis directly. Murphy's analysis implies big substantial implications, but it is still important to make an additional analysis such as marginalisation.

2) The continuing economic maritime peoples of Southeast Asia deeply related to fishing has created labour pool very conducive for piracy. While in case of Somalia, isolation and anxiety are further compounded by the lack or limited nature of social support circles end by social marginalisation due to unemployment and other factors.

1. Legal and Jurisdictional Weakness

The limitations of UNCLOS and the SUA Convention have been already detailed above. With the majority of all piratical acts taking place in coastal waters, the major obstacle to effective law enforcement is the inviolability of state sovereignty. States that have little will, capability, or even appropriate domestic legislation to deal with piracy or armed robbery in their own waters are often extremely reluctant to allow foreign coast guards, police or navies into their waters to deal with the problem. Moreover, there is no mechanism to penalise a state for failing to combat piracy in their territory.

In Southeast Asia, Indonesia is a prime example of a state which has lacked the will and resources to deal effectively with piracy, yet has been extremely reticent, as has Malaysia, in allowing other states' vessels to enter its own territorial waters to assist in policing. This has also led to operational limitations in the effectiveness of joint anti-piracy initiatives such as the Malaysia-Singapore-Indonesia(MALSINDO) patrols of the Malacca Straits, where vessels do not have the right of hot pursuit into each other's territory when pursuing pirates; the Malacca Straits Security Initiative(MSSI) Eyes in the Sky(EiS) program, where maritime patrol aircraft cannot go within three miles of other states' coastlines even when chasing pirates; and the Washington-led Regional Maritime Security Initiative(RMSI), which was substantially diluted due to Indonesia's and Malaysia's vetoing of the presence of foreign troops in their territorial waters(Vavro 2008: 13-17). In Somalia, the growth of piracy throughout the 1990s and 2000s was aided by the unwillingness of outside states to enter Somali territorial waters, despite

the manifest absence of any central authority within Somalia to police the waters themselves, until UN Security Council Resolution 1816 permitting such action was passed in June 2008(IMO 2009).

2. Favourable Geography

As Gottschalk and Flanagan state(See Liss 2009), pirates need certain requirements to be able to operate: rich pickings, a low risk of detection, and nearby safe havens where they can hide, seek repairs, and obtain supplies. This being so, piracy has mainly taken place close to coasts and in narrow seas, where traffic is funnelled close to land, where pirates are based. Most pirate attacks take place in bays, straits, estuaries, archipelagos and narrow seas. These seas are generally more crowded, meaning more potential targets, with larger ships forced to transit slower, making them easier to board, and making it that much harder for approaching or escaping pirates to be detected.

As we have seen, Southeast Asia's geography makes it an ideal location for piracy. The Malacca Straits are one of the world's major maritime chokepoints, with over 50,000 ships traversing it each year, and at its narrowest, only 1½ miles wide(Dingwall 2006). The thousands of islands, with their countless miles of sparsely populated, heavily forested, indented coastline, concealing inlets and navigable rivers, and populated by a large number of poor maritime-oriented people provides both the shelter and manpower for the conduct of successful piracy. In addition to the international merchant vessels transiting the region, the large numbers of indigenous fishermen provide both plenty of targets,

and traffic in which to hide. Moreover the territorial water boundaries between Malaysia, Singapore, Indonesia, and the Philippines make it easy for pirates to escape the jurisdiction of national law enforcement agencies after committing their crimes.

Although Somali pirates do not have a heavily indented and forested coastline to conceal themselves, they have the Gulf of Aden to the north of the country, where all the traffic bound to and from the Suez Canal is funnelled through the Bab Al Mandeb chokepoint, resulting in high value ships and their cargoes transiting less than 50 miles from the northern Somali coast. The high volume of local traffic also provides the pirates some protection from detection. Additionally, the lesser trade route connecting Southeast Africa with the Red Sea follows the Somali east coast.

3. Conflict and Disorder

Piracy thrives when coastal regions suffer from war, conflict and civil disorder. Under these circumstances, where there is a loss of political hegemony, a lack of law enforcement authorities, desperate conditions, a brutalising of the population, and often an abundance of weaponry and small arms, people are drawn to criminality(Murphy 2007: 15).

This has been an ancillary factor in Southeast Asia, primarily in the growth of opportunistic and organised piracy in both the Sulu archipelago and the northern Malacca Straits, stimulated by the Moro insurgency against the Philippine Government, and the unrest in Aceh caused by the GAM campaign against the Indonesian central government. In both these areas, there has been loss of political control

from already weak central states, with a corresponding lack of law enforcement, and influxes of small arms and other weapons, contributing to the increase in scale and intensity of piracy.

In Somalia, the failure of the state has been the absolute prime factor in the emergence of piracy. The absence of a central authority willing and capable of upholding law and order, and the dissolution of law enforcement agencies into clan-based militias and competing warlords has created the perfect environment for all forms of crime to flourish. The Somali Navy, such as it was, was no longer operational after 1991, and with warlords offering bogus fishing licences to foreign vessels fishing illegally, the indigenous fishermen saw the only way of protecting their livelihoods was to act against these illegal fishing vessels themselves. Without any restraint from a central authority, it was just a small step from these activities to maritime organised crime and piracy (Lehr, 2007: 12-14). Furthermore, the abundance of weaponry meant that they were able to arm themselves with automatic weapons and rocket propelled grenades.

4. Under-funded Law Enforcement

Where the state either has insufficient resources or higher priorities, to which funding must be allocated, maritime law enforcement agencies (Police, Customs, Navy, or Coast Guard) are inadequately funded and trained, so giving pirates freedom to operate. Poor countries often cannot afford to police large territorial waters and extensive, remote, inaccessible coastlines. For such a task, expensive patrol ships and equipment such as shore-based command and control facilities,

surveillance radars and maritime patrol aircraft are required, which are beyond the reach of poor countries' budgets. Law enforcement personnel are frequently inadequately trained to conduct their mission and insufficiently remunerated to resist corruption.

This is clearly a factor in Southeast Asia, where governments have had far higher priorities than dealing with piracy. Indonesia for example has faced secessionist movements in West Papua, Aceh and East Timor, rampant corruption, uncontrollable maritime borders, illegal fishing, large-scale smuggling, and organised crime networks against a backdrop of economic and political turmoil after Suharto's fall in 1998. Serious financial difficulties mean that funding is not available for maritime law enforcement, particularly when piracy is compared against the scale of crime on land. Moreover the Indonesian Armed Forces(TNI) have traditionally had to fund a significant proportion of their budget themselves through their own private business ventures. Even now, funding remains opaque and the TNI retains major connections with private business and with politics in a corrupt government. It has been directly involved in smuggling operations and there is hearsay evidence that it has itself been involved in piracy(Young 2010: 78-86). In Somalia on the other hand, it is not the case that the law enforcement agencies are underfunded, but that they do not exist at all, which accounts for pirate groups calling themselves the 'Somali Coast Guard' or 'Somali Marines' and their initial aims of filling this void to prevent illegal fishing.

5. Permissive Political Environment

Piracy thrives where the law enforcement is not only under-resourced, but also lax. This can be considered a global failing, with many major maritime powers unwilling to prioritise their activity, or even revise their domestic laws to be able to conduct counter-piracy operations until very recently. Within weak states facing piracy, this permissive political environment can range from political indifference to the costs of piracy, to a disregard of the problem due to higher priority issues, to connivance in and direction of maritime crime by corrupt local or national politicians. Where piracy is controlled by organised crime, government officials and law enforcement agents are invariably corrupted to enable the criminal activity to be carried out. Where government officials are corrupt at either local or national level, there is little attempt at countering piracy.

Southeast Asia's chronic piracy problem has been fed by Jakarta's indifference. Faced with the raft of serious issues mentioned above, the central government has ignored the problem of local law enforcement agencies' corruption and collusion with criminals and pirates, which the pirates need in order to find safe havens and market their stolen goods. Similarly, the permissive political environment in China during the 1990s permitted the growth of the large-scale hijacking of merchant vessels and their reflagging and reappearance as 'phantom ships'. In Somalia, the semi-autonomous pirate state of Puntland, which relies on the revenue from criminal activities, provides a clear example of the permissive political environment piracy needs to thrive. The large reduction in piracy after the collapse of the warlords' rule and their

replacement by the Islamist ICU for six months in 2006, again demonstrates the requirement for a permissive political environment for piracy to flourish in Somalia.

6. Cultural Acceptability

In countries where piracy is endemic, there is often a culture of coastal raiding and piracy in society. As seen earlier, this is particularly so amongst the inhabitants of the Sulu region of the Philippines and eastern Malaysia, where these activities have been part of the culture and history of the seafaring peoples of this region. Eklöf points out that this cultural sanctioning of piracy is confined to certain social groups, particularly young men, where raiding and piracy is seen as a chance to prove male virtues such as risk-taking, bravery, honour, masculinity, and magnanimity. For these participants, this social reward may be more important than the economic rewards. Although other cultures in Southeast Asia do not share this raiding heritage, Adam Young notes that the existence of poor maritime communities living in the vicinity of important historic trading routes is likely to be a reason that piracy is seen amongst these communities as culturally acceptable. He also makes the point that today ‘there is continuity of a maritime socio-cultural matrix that still practises a broad-based subsistence economy, of which piracy is still a “thinkable” component’(Young 2010: 99). In Somalia on the other hand, this is not a causative factor as there was little history of piracy before the fall of Siad Barre in 1991.

7. The Promise of Reward

For both the opportunistic pirate stealing cash out of a ship's safe, and the organised gang hijacking a whole ship and its crew, the level of return can be extremely lucrative compared to their earnings from legitimate business. In Southeast Asia, Eklöf estimated that in 1997, the average net profit for each member of an opportunistic pirate group working in the southern Malacca Straits was between US\$ 500-700 for a night's work, equivalent to two month's wages including overtime for a factory worker before the 1997 economic crisis. The rewards from hijacking merchant vessels, giving them phantom identities and then selling on their cargoes by organised crime are in the order of millions of dollars. In Somalia, where the yearly average income is at most US\$ 600, a pirate can earn between US\$ 10,000 and US\$ 30,000 per year, (Bedford 2008: 1-4) with the warlords and expatriate gang leaders making millions of dollars from the ransom money. Just in January this year, US\$ 3 million, and US\$ 3.5 million ransoms are reported to have been paid for the Saudi-owned *Sirius Star* and the Ukrainian-owned *Faina* respectively. During 2008, an estimated total of approximately US\$ 40 million was paid in ransom money to Somali pirates.

8. The Marginalisation of Poor Maritime-Orientated People

Generally, pirates originate from economically and socially marginalised maritime-orientated communities, living at subsistence level. One of the key drivers for these people turning to piracy has been the loss of their livelihoods as fishermen due to falling fish stocks, which

have declined globally through a number of causes: overfishing, especially by illegal, unlicensed, and unregistered(IUU) fishing vessels; destruction of habitats; pollution; and changes in sea conditions due to climate change.

In Southeast Asia, desperate fishermen have turned to opportunistic piracy as a source of income in a time of need, and this is particularly so amongst the pirate-fishermen of the Riau Archipelago, whose fishing grounds are polluted and over-fished. Furthermore, unemployed fishermen are also recruited to join pirate gangs by organised criminals because of their maritime skills. The poverty of these maritime communities and the lack of other employment opportunities are frequently the most important motivators for people to become pirates. This poverty has been exacerbated by the growing inequalities between the haves and the have-nots in Southeast Asia caused by market-led globalisation, and the effects of the 1997 Asian economic crisis. (Young, 2010: 99)

In Somalia, as we have seen, the huge upsurge in piracy was initiated by subsistence fishermen seeing their livelihoods destroyed by illegal fishing. An estimated 700 foreign-owned vessels were fishing illegally in Somali waters in 2005 according to the Somali fishery country profile compiled by the UN Food and Agriculture Organisation. Moreover local fishermen were reportedly harassed and intimidated by the foreign vessels ramming their boats, cutting their nets and opening fire on them. Peter Lehr estimates that US\$ 300 million of fish are poached in Somali waters annually by trawlers from nations as far away as Taiwan, France, and Spain. With this level of illegal activity in Somali waters it is not hard to see why Somalis began to retaliate.

Thus, it can be seen that piracy in Southeast Asia and Somalia has both common and discrete causes, and in each of the case studies, differing levels of importance can be attached to each cause. In both cases, legal and jurisdictional weaknesses, a permissive political environment, the promise of reward, and the marginalisation of poor maritime-orientated people are key causes. In Southeast Asia, favourable geography, under-funded law enforcement, and for some of the piracy, cultural acceptability, are also important factors. In Somalia, on the other hand, the key factors are conflict and disorder and non-existent law enforcement. It is important to note that nearly all of these causes are land-based, which must be born in mind in our analysis of the effectiveness of present counter-piracy efforts.

VI. CONTEMPORARY COUNTER-PIRACY APPROACHES

Present efforts to counter piracy are primarily focussed on naval and law enforcement activity to protect international shipping. In Southeast Asia, where piracy has been a problem for longer, the coastal states have all taken steps at the national level. The Indonesian Navy is reforming its operations and modernising to increase effective patrols against criminal activities. It has set up command centres, contactable by shipping, and deployed special forces that can respond to piracy. The Royal Malaysian Navy has built radar stations along the Malacca Straits to monitor traffic and acquired new patrol boats. Special anti-piracy task forces have been set up and vulnerable vessels like tugs and barges are protected. It has also formed a coast guard, the Malaysian Maritime Enforcement

Agency(MMEA), to bring together all the agencies involved in maritime security under one command. Singapore has introduced an integrated surveillance and information network for tracking and investigating suspicious movements; increased naval and coast guard patrols; and re-designated shipping routes to minimise merchant vessel interaction with small craft.

At the regional level, there are a number of programmes and agreements in force to close the jurisdictional and informational gaps, and increase regional co-operation. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia(ReCAAP) was ratified by 14 regional states in September 2006, with the aim of improving the exchange of information through an Information Sharing Centre(ISC) in Singapore, and assisting in capacity-building and inter-state co-operation. The effectiveness of the Agreement is however diminished by the fact that two of the key states, Malaysia and Indonesia, are not members due to their concerns over sovereignty. The co-ordinated Malacca Straits Patrols, running since July 2004, despite their limitations mentioned earlier, have had a positive effect, and Thailand and India look set to join later this year to improve the security of the northern sector. A Joint Co-ordinating Committee between the participating countries has been established, an Information Exchange Group has been set up between naval intelligence agencies, and joint standard operating procedures have been developed. As a result, the number of attacks has substantially declined in the Straits. However criminal activity has not been completely eradicated and concentrating on the Malacca Straits may have only succeeded in pushing attacks elsewhere.

External powers are building capacity through bilateral training and the donation of resources. The US is assisting Indonesia build a string of coastal surveillance radars along the Malacca and Makassar Straits, and the US, Japan, China and India have donated resources, conducted joint piracy exercises, and given training assistance to coastal states (Vavro 2008:14-15). However, although Singapore waters are considered generally safe, and Malaysian waters substantially safer than they were, Indonesian, Philippines and Thai waters remain dangerous, with law enforcement officials remaining low paid, lacking resources, and susceptible to corruption. The Thai, Philippines and Indonesian military and police remain involved in illegal activities and the navies all lack sufficient patrol vessels to effectively police their waters. Thus although anti-piracy efforts have enjoyed some success in Southeast Asia, the efforts have concentrated on dealing with the symptoms - preventing attacks on shipping, rather than addressing the underlying causes, which drive people to piracy.

Off Somalia, an international effort has had some success in reducing the number of hijackings, and protecting WFP shipping into Mogadishu. With the start of the EU anti-piracy operation ATALANTA at the beginning of this year, and the deployment of warships from several other nations, a large naval presence has been achieved in the Gulf of Aden, where a patrolled corridor named the Maritime Security Patrol Area (MSPA) has been established, routing traffic as far as possible from the Somali coast. In the first three months of this year, about 250 pirates were arrested, with 110 disarmed and turned over to Kenya, with whom the EU and US have signed legal agreements for prosecution. The UN Security Council Resolution (UNSCR) 1816 of 2 June 2008, which

allowed entry into Somali territorial waters, (updated by UNSCR 1846 on 2 December 2008), and UNSCR 1851 of 16 December 2008, which enabled anti-piracy operations on land have helped strengthen the legal and jurisdictional powers of enforcement. Moreover with the establishment of an International Contact Group for Piracy off the Coast of Somalia(CGPCS) and the signing by 17 regional states of the IMO's Code of Conduct for the Repression of Piracy and Armed Robbery in the Western Indian Ocean and Gulf of Aden in Djibouti in February 2009, the international community has shown itself prepared to cooperate to fight piracy and share information. Additionally, a programme to train regional coastguards has been launched by the EU(Borg 2009). The activity has demonstrated to pirates that they cannot act with impunity, and have increased the risk side of the risk-reward equation for would-be pirates.

However, despite the large number of warships patrolling off Somalia, the threat area, at over 2.5 million square miles is just too large to provide permanent protection for merchant vessels, as demonstrated by the recent hijackings off the Seychelles. Moreover, although UNSCR 1851 allows for action on land, after the 1993 Battle of Mogadishu there is very little appetite for military intervention in Somalia. Despite the successful recapture of the hijacked luxury yacht *Le Ponant* by French special forces in April 2008, any attempt to recapture larger hijacked vessels, particularly tankers, where the environmental implications of an oil spill would need to be taken into account as well as the lives of the hostages, would be a far more difficult operation(Liss 2009). Additionally, the Western ISC in Mombasa envisaged by the Code of Conduct will not be as useful as the Singapore-based ReCAAP ISC. Not

only the lack of cross-border activity by Somali pirates, but also the large oceanic distances involved and the weakness of the regional states, which possess few maritime resources, will mean that much less benefit is achieved out of coastal state co-operation than in the Malacca Straits, where the pirates move between states' territorial waters, distances are small, and at least two of the states have reasonably strong enforcement agencies. With this in mind, the current activities can only be seen as the first step.

Thus in both case studies, the present efforts are focussed more on dealing with the symptoms and less on addressing the underlying causes of piracy, as analysed earlier in this paper. Piracy is a phenomenon, whose root causes (with the exception of overfishing), bases, and markets are on land and many of its effects felt on land, thus successfully suppressing piracy can only be achieved through addressing these mainly land-based causes. Efforts at sea need to be linked to a wider security strategy, which approaches the problem in a holistic way, acknowledging the inter-connected nature of diverse non-traditional security threats. Without addressing these issues, actions at sea will merely contain piracy, not eradicate it. Indeed if the underlying causes are not resolved, naval anti-piracy patrols will merely become a long-term costly expense for states.

In Southeast Asia, the marginalisation of poor maritime-orientated people needs to be resolved. The underlying reasons for their poverty and exclusion from national economies need to be addressed, and these people re-integrated into mainstream society. This will require significant economic development targeted towards coastal regions and maritime peoples where piracy is a problem. International funds will be

needed to encourage sustainable economic development and create opportunities with the goal of alleviating the most abject poverty in order to remove the motivation for turning to piracy, and drawing people into having a stake in the legitimate economic processes of the state. This must be accompanied by efforts to integrate these people into the national identity of the state, so developing their loyalty and binding them to legitimate power structures(Young 2010: 120). The current global economic crisis will make these tasks even more important. Vice Admiral Ahmad Ramli Moh Nor, chairman of the Maritime Institute of Malaysia has recently warned that levels of piracy and armed robbery may increase due to the economic downturn(See Young 2010). In order to prevent fishermen turning to piracy, efforts also need to be taken to combat illegal fishing and protect the marine environment and fish stocks. Furthermore the permissive political environment that allows organised crime to flourish must be tackled. Internationally co-ordinated efforts are certainly required to reduce the scale of operations, power and influence of organised criminal gangs at all levels, but these will not succeed without reform of governance and a sharp reduction in the pervasive levels of political corruption in states such as Indonesia. Additionally, problems within local militaries and law enforcement agencies need to be resolved, with a consolidation of the various maritime security forces along the lines of the MMEA, and the eradication of rampant corruption amongst the most important. Furthermore, sufficient and appropriate equipment and training need to be acquired to enable the law enforcement agencies to disrupt pirates and their organisational structure, and destroy their bases and hideouts. Overt and capable law enforcement will reduce the attractiveness of

piracy as means of making a living. Thus a broad range of policies aimed at reducing the social and economic marginalisation of maritime-oriented peoples, strengthening the authority and legitimacy of the state and improving policing capabilities are required. Without close co-operation between governments, and long-term support from international organisations and western nations to provide assistance in the implementation of these policies, the roots of piracy in Southeast Asia will never be eradicated.

In Somalia, as we have seen earlier, the root cause of the explosion of piracy is conflict and disorder, which will only be resolved by addressing the political and humanitarian situation in Somalia, which is clearly a long-term project requiring both the efforts of local leaders, regional states, and the international community. The primary aim must be an end to internal armed conflict and the recreation of an effective state, whether as a unitary nation-state, or with some form of independence or federal structure for the regions of Somaliland and Puntland. This will need feasible solutions that are politically acceptable to the population of Somalia. There must be room within any settlement for all parties, including the Islamists, and it should not be undermined by foreign forces, as in 2006, when the ICU was deposed by the US-backed Ethiopian intervention. So long as a new government does not oppress the Somali people, and respects human rights and international borders, it should be given international support. It is only through international support for political solutions, that a government can come to power that has the ability to control and stabilise the country and act against the pirate gangs. Thus it is the international community's responsibility to de-escalate the conflict, strengthen the Djibouti peace

process, and enforce the UN arms embargo. At the same time, the issue of illegal fishing and toxic waste dumping must be addressed. Large fishing vessels, often European owned and operating under flags of convenience must be prevented from fishing illegally off the Somali coast. The international community must not use its warships to allow its fishing vessels to continue their rapacious harvest of Somali marine resources. With an improvement of governance, an EU Fisheries Partnership Agreement with Somalia could be envisaged(Borg 2009), although this partnership must not be a fig leaf for European exploitation of Somalia's fishery resources to the detriment of Somali fishermen. The European Commission's Somalia Support Programme 2008-2013, which has a EUR 215.4 million budget and objectives of improving governance, education, economic development and food security(Golubiewzski 2009), must be seen as part of a long term international strategy to eradicate Somali piracy.

VII. CONCLUSION

Contemporary piracy is a phenomenon, whose roots lie deep within global, regional, and local socio-economic systems. We can see that piracy, when it emerges is due to the interplay of a multitude of factors, and that the different combinations of these factors, which are present in differing degrees wherever it occurs, gives each case of piracy its distinctive local character. In both cases studied in this paper, legal and jurisdictional weaknesses, a permissive political environment, the promise of reward, and the marginalisation of poor maritime-orientated

people are key causes. In Southeast Asia, favourable geography, under-funded law enforcement, and for some of the piracy, cultural acceptability, are also important factors. In Somalia, on the other hand, the key factor is conflict and disorder and non-existent law enforcement. These distinct characteristics must be taken into account, when designing counter-piracy strategies, and as we have seen, is not axiomatic that a strategy that works in one region will necessarily work in another. The way different types of piracy are classified is also important in our attempts to understand the phenomena. Piracy can be classified according to the character and severity of the attacks upon shipping and seafarers, its causes, the pirates' objectives, or its effect on local, regional, or even global security. The choice of which means of classification to use is entirely dependent upon the context of the study. Thus an examination of piracy's effects on the shipping industry will need a different typology than an analysis of strategies to counter it.

The effects of piracy are varied and widespread. There is the obvious first order effect on the lives and wellbeing of seafarers, and in particular the local fishermen and inshore traders, whose plight is rarely exposed. Whilst piracy's effect on overall global trade flows is negligible, the sensitivity of modern commercial logistics means that the economic impact of piracy can be acute if vessels are delayed or rerouted. Of particular concern is the closure of the world's vital maritime chokepoints, through a piracy-induced accident or terrorist act, which would have a great disproportionate effect on the world's flow of trade. For coastal states, the effect can be a broader insidious political, social, and economic erosion of state authority through organised crime and corruption, resulting in a loss of governance and a growth in parallel

economic structures. Piracy can also have a significant effect on neighbouring states reliant upon maritime trade. These effects may then motivate States to act to counter piracy. In some cases, it is a tipping point of the scale of the economic costs, in others it is the securitisation of the issue, and in others, it is the opportunity it offers to further unrelated national interests. Often it is a complex interplay between all three reasons.

Driven by these motives, states and international organisations have had some recent success in reducing the number of successful attacks over the last four years in Southeast Asia and the last six months off Somalia. However the mainly maritime law enforcement approach has been primarily focussed at treating the symptoms rather than the causes of the disease. This is of course the easier and less expensive course of action in the short-term, and one driven by the political will and economic resources of the states involved. However unless the root causes are addressed, this will prove to be merely costly containment of the worst excesses of the problem. What is needed is a co-ordinated, holistic approach, based on international co-operation as well as regional initiatives, which address the political, social, economic, informational, infrastructure, financial, legal and law enforcement aspects of the problem. In particular efforts must focus on providing alternative viable sources of employment and livelihoods for those maritime-orientated people who are tempted by piracy. Without addressing the root structural causes on land with a long-term comprehensive approach, piracy at sea will never be eradicated.

Key Words: Piracy, Southeast Asia, Somalia, Maritime Law, Malacca Straits

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<국문초록>

동남아시아와 소말리아의 해적 문제에 관한 연구 기원, 영향과 현재의 대해적 대응방안 고찰

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소말리아 해적 문제는 전례가 없는 단계에 다다랐다. 2010년 까지 만 해도 445대가 넘는 선박이 해적들로부터 피해를 당했으며 1,181여 명의 사람들이 목숨을 위해 인질이 되어야 했다. 그러나 소말리아만이 해적문제가 이슈화 되는 곳은 아니다. 지난 20년간 동남아시아의 해적 문제도 큰 이슈가 되어 왔다. 본 논문은 해적 행위의 원인, 영향, 그리고 유형의 분류에 대한 분석을 위해 두 가지의 사례 연구를 통해 이를 살피려 한다. 각각의 해적 관련 사례가 서로 다른 특징들을 가지고 있으나 현재 신문이나 인터넷 상의 보도뿐만 아니라 학문, 법률상의, 그리고 공식적 문서들에서 얻어지는 정보들을 이용해 분석한 결과 해적 행위의 원인은 대부분 육지에서 발견된다는 것으로 결론을 낼 수 있다. 본 논문을 통해 제 국가들은 경제, 안보, 지리적인 이유의 이해를 달리 하여 해적 행위를 근절하려 한다는 것을 살펴본다. 또한 현재의 해적 행위에 대한 대응적 접근은 전체론적으로 육지에서의 원인에 근거하여 다루어지는 것이 아니라 바다에서의 해양법 시행에 집중되어 있다. 이는 해적의 소탕을 위한 과정이라기보다는 여전히 문제를 내포하고 있을 수밖에 없다는 점을 지적 하고자 한다.

주제어: 해적, 동남아시아, 소말리아, 해양법, 말라카해협

